

JOHN GILBERT vs. APC NATCHIQ, INC.
CASE NO. 3:03-CV-00174-RRB

DEPOSITION OF JOHN D. GILBERT
MAY 31, 2006

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JOHN GILBERT,

Plaintiff,

v.

APC NATCHIQ, INC.,

Defendant.

Case No. 3:03-CV-00174-RRB

DEPOSITION OF JOHN D. GILBERT
June 7, 2006

APPEARANCES:

FOR THE PLAINTIFF:

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FOR THE DEFENDANT:

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ALSO PRESENT:

MR. DOUGLAS SMITH

* * * *

EXHIBIT

A

JOHN GILBERT vs. APC NATCHIQ, INC.
CASE NO. 3:03-CV-00174-RRB

DEPOSITION OF JOHN D. GILBERT
MAY 31, 2006

Page 2

PURSUANT TO NOTICE, the Deposition of JOHN D. GILBERT was taken on behalf of the Defendant before Cheri Tabor, Notary Public in and for the State of Alaska and Reporter for Metro Court Reporting, at DeLisio Moran Geraghty & Zobel, P.C., 943 West 6th Avenue, Anchorage, Alaska 99501, on the 31st day of May 2006, commencing at the hour of 9:07 a.m.

TABLE OF CONTENTS

Direct Examination by Ms. Zobel	5
Cross Examination by Mr. Covell	152
Redirect Examination by Ms. Zobel	163
Recross Examination by Mr. Covell	165

EXHIBITS

G-1 - John Gilbert's resume	9
G-2 - Safety supervisor job description	32
G-3 - Shift calendar	44
G-4 - Slope pay calculator	45
G-5 - Kuparuk River Unit Organizational Chart	56
G-6 - Senior Staff Meeting Agenda	64
G-7 - Change out memorandum	67
G-8 - Instrument replacement analysis	87
G-9 - Letter to Mr. Gilbert from Dr. Ellis, dated May 16, 2002	89
G-10 - Letter to Mr. Gilbert from Mr. Irish, dated May 14, 2002	91
G-11 - Memorandum concerning sampling cost dated Mar. 9, 2003	92
G-12 - Memorandum to APC Safety Specialists dated Feb. 16, 2002	102
G-13 - Excerpt, NORM Testing and Reporting Procedure	103
G-14 - Suspended Personnel Platform Lifting Procedures Form	105
G-15 - Handwritten notes	111
G-16 - Memorandum to APC HSET Department - Kuparuk, dated Feb. 17, 2002	113

Page 3

G-17 - HSET Action Item Log	113
G-18 - Weekly Supervisor's Meetings Minutes	115
G-19 - Level 4/3 Incident Investigation Follow-up Report, dated June 8, 2002	117
G-20 - Handwritten notes	118
G-21 - Proposed hourly rate computations	120
G-22 - HSET Staff Meeting	120
G-23 - Memorandum to APC - Natchiq HSET Department, dated June 18, 2002	124
G-24 - Memorandum to APC Safety Specialists, dated Feb. 16, 2002	129
G-25 - Post-Job Contractor Evaluation	129
G-26 - APC HSET Staff	134
G-27 - APC HSET Staff	134
G-28 - Memorandum concerning exposure monitoring results, dated Feb. 10, 2003	140
G-29 - Audiometric Test Documentation Procedures	144
G-30 - Memorandum concerning APC 624 construction internal review 2001 action log, dated Mar. 16, 2002	145

Page 4

PROCEEDINGS

(On record)

COURT REPORTER: My name is Cheri Tabor and I'm a court reporter for Metro Court Reporting in Anchorage, Alaska. Today's date is May 31, 2006, and the time is approximately 9:07 a.m. We are at the offices of DeLisio Moran Geraghty & Zobel, P.C., 943 West 6th Avenue, Anchorage, Alaska 99501 for the deposition of John Gilbert. This case is in the United States District Court for the District of Alaska, in the matter of Gilbert v. APC, Case No. 3:03-CV-00174 RRB.

Mr. Gilbert, would you please raise your right hand?

(Oath administered)

MR. GILBERT: I do.

JOHN D. GILBERT

having first been duly sworn under Oath, testified as follows on examination:

COURT REPORTER: Thank you. Please state your full name and spell your last name for the record.

A John D. Gilbert, G-i-l-b-e-r-t.

COURT REPORTER: May I please have your mailing address?

A 3291 East 500 North in Lewisville, Idaho 83431.

COURT REPORTER: Okay. And I also need a daytime or message telephone number for you.

A 208-754-4098.

Page 5

COURT REPORTER: All right. Thank you.

Counsel would you please identify yourselves and who you represent?

MR. COVELL: Kenneth Covell for Mr. Gilbert.

MS. ZOBEL: And I'm Patricia Zobel here on behalf of APC Natchiq and Doug Smith who is a representative of the company is present.

COURT REPORTER: All right. Thank you. You may proceed.

DIRECT EXAMINATION

BY MS. ZOBEL:

Q Yes, Mr. Gilbert, good morning.

A Good morning.

Q We're going to be doing a series of questions regarding your claim for wage and hour. You understand that's the purpose for you being here today, do you not?

A Correct.

Q Okay. The court reporter started to give you a bunch of what I call rules of the road and I'll do those myself here on the record and if she wants to add any I would invite her to do so. The first is that she is recording that which you respond to my questions so you must be sure that your answers are audible, that you answer verbally. Nodding doesn't pick up on the tape recording, do you understand that?

2 (Pages 2 to 5)

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JOHN GILBERT vs. APC NATCHIQ, INC.
CASE NO. 3:03-CV-00174-RRB

DEPOSITION OF JOHN D. GILBERT
MAY 31, 2006

Page 6

1 A Yes, I do.
2 Q Okay, good. To the extent that you're able to answer
3 yes or no, please do so as opposed to uh-huh or unh-
4 unh. Those can be misunderstood when they are
5 transcribed as to whether it was affirmative or
6 negative.
7 A Very good.
8 Q Okay. Also I'm not asking you to guess. To the extent
9 that you recall, please answer my questions. If you
10 have a question about the question I'm asking you, if
11 you don't understand, tell me so. I will repeat it, or
12 I will try and break it down so that it's easier for
13 you to answer. All right?
14 A Very good.
15 Q All right. If you want to break let me know, and we'll
16 take a break. Your counsel is present, you have the
17 right to discuss questions with counsel before
18 answering, however, I will note it for the record that
19 you are leaving to discuss with counsel before you
20 answer a particular question. And that's in the record
21 for whatever it's worth. But we will take breaks if
22 you'd like to do so, and just let me know.
23 A Okay.
24 Q I'm not trying to make this a marathon. That's one of
25 the differences when you have a woman doing it.

Page 7

1 MS. ZOBEL: Yes, counsel, you look like you
2 have a question.
3 MR. COVELL: One other thing, she might ask you
4 a question and I might object. Okay? At that point, wait
5 until I state my objection and as a general proposition,
6 whether or not I object, you still have to answer the question.
7 I may -- I doubt it, but I may direct you not to answer the
8 question. If we do then, she and I might have a conversation
9 on the record. But....
10 A Okay.
11 MR. COVELL: You just wait until we get done,
12 and then you can look at either of us, and probably one of us
13 will say go and answer the question.
14 MS. ZOBEL: Go ahead and answer the question,
15 yes.
16 Q (By Ms. Zobel) The most important rule is that we do
17 not talk on top of each other. I will try to give you
18 the courtesy of allowing you to complete your answer
19 before I ask my next question. And if you will not
20 anticipate what I'm asking you, but will let me finish
21 the question, we will get a question answer, question
22 answer and the record will be far easier to understand
23 and the court reporter will thank us at the end of the
24 day.
25 A Okay.

Page 8

1 Q All right. Before we begin do you have any questions?
2 A No, I have no questions.
3 Q All right. Do you feel competent to go through this
4 deposition today?
5 A Yes, I do.
6 Q And you've not taken any substances that would affect
7 your ability to understand or answer my questions?
8 A No, I have not.
9 Q All right. Mr. Gilbert, your full name, could you give
10 that again for the record?
11 A John David Gilbert.
12 Q And you've already given us your address, how long have
13 you lived in Lewisville, Idaho?
14 A Approximately two years.
15 Q And your date of birth?
16 A 12/07 of 1963.
17 Q And your Social Security Number?
18 A 526-77-3420.
19 Q And are you married?
20 A Yes, I am.
21 Q And do you have dependents?
22 A Yes, I do.
23 Q How many?
24 A Two.
25 Q Okay. And this is a test, what was the date of your

Page 9

1 marriage?
2 A That is a test. I was married in 2000 -- July 15th of
3 2000.
4 Q Okay. I'm going to show you your resume which may make
5 this simpler to deal with. Somehow we've ended up with
6 one page of three. Excuse me counsel.
7 (Off record)
8 (On record)
9 MR. COVELL: I can just look over his shoulder.
10 MS. ZOBEL: Actually what the problem is I have
11 page one, two and three I do not have.
12 MR. COVELL: Okay. Let's give this to the
13 court reporter, she can go ahead and mark that section.
14 (Deposition Exhibit G-1 marked)
15 Q (By Ms. Zobel) Mr. Gilbert you graduated from high
16 school, correct?
17 A Yes, I did.
18 Q What year?
19 A 1982.
20 Q And you received a high school diploma?
21 A Yes.
22 Q And where was that?
23 A That was at Cortez High School in Phoenix, Arizona.
24 Q And according to this page --
25 MS. ZOBEL: Have you marked the first sheet?

3 (Pages 6 to 9)

JOHN GILBERT vs. APC NATCHIQ, INC.
CASE NO. 3:03-CV-00174-RRB

DEPOSITION OF JOHN D. GILBERT
MAY 31, 2006

Page 10

1 COURT REPORTER: Yes.
2 MS. ZOBEL: You may keep the second sheet.
3 COURT REPORTER: All right.
4 MS. ZOBEL: Just for reference. I'm going to
5 show you what's been marked as Exhibit 1, it's the first page
6 of three that will be Exhibit 1 and G-1 I believe is the way we
7 have agreed to do these.
8 COURT REPORTER: Yes.
9 MR. COVELL: Right.
10 COURT REPORTER: Thank you.
11 MS. ZOBEL: Here are the pages, Doug.
12 Q (By Ms. Zobel) According to page one, you attended
13 Montana Tech -- let's see Glendale Community College
14 first, correct?
15 A Correct.
16 Q And eventually you received your B.S. in Environmental
17 Engineering in 1994?
18 A Correct.
19 Q And that was from where?
20 A That's Montana College of Mineral Science and
21 Technology.
22 Q Okay. And then you received a Masters, is that from
23 the same school, or is that.....
24 A That's correct, it's the same school. They just had a
25 name change. It's formally known as the Montana School

Page 11

1 of Mines.
2 Q Okay.
3 MS. ZOBEL: Let's stop for one second. We do
4 not need to have page two and three separately marked. We just
5 want to be sure everybody now has three pages, and they should
6 be marked at the bottom APC0013 through -- or 12, 13, and 14.
7 Okay.
8 A Okay.
9 MS. ZOBEL: And I'll get us a stapler at a
10 break. Okay. Having had our first snafu, we can now move on
11 hopefully.
12 Q (By Ms. Zobel) John this was what you gave to APC.
13 Have you an updated CV with you maybe?
14 A I do not have an updated one with me. I do have an
15 updated version, I just don't have one with me.
16 Q And this would have ended with your job prior to going
17 to work at APC, is that correct?
18 A Correct.
19 Q And that was -- can you pronounce the mining company
20 for me?
21 A Hecla.....
22 Q Hecla.
23 AMining Company.
24 Q Okay. Tell me what you did with Hecla?
25 A I was basically a mine engineer for the company and

Page 12

1 primarily taking care of reclamation of the closed down
2 gold mine and in addition to that I took care of the
3 overall health and safety responsibilities for the
4 employees at the mine.
5 Q Okay. In addition to the degrees that you have listed,
6 on the last page, page 14, you have specialized
7 training.....
8 A Uh-huh (affirmative).
9 Qthat is listed?
10 A Uh-huh (affirmative).
11 Q And you have certifications in a number of different
12 areas. Could you, just for the record, tell us what
13 the certifications are? Professional certifications --
14 I don't want just the training you've had, I want the
15 actual certifications.
16 A I actually have no professional certifications. I have
17 -- was pursuing my CSP and have since stopped pursuing
18 it.
19 Q Okay.
20 A I have no professional certifications whatsoever.
21 Q All right. In pursuing your certification as a
22 certified safety professional, how many hours do you
23 think you've put in?
24 A Not many. Eighty.
25 Q Okay.

Page 13

1 A A couple of weeks.
2 Q Okay. And was that classroom?
3 A No.
4 Q What was it?
5 A Self-study.
6 Q What would you have to do to complete that?
7 A Oh, give them a bunch more money now that my first go
8 around has expired and then start studying again.
9 Probably put in half a year maybe, I don't know what it
10 would take now. It would take considerable effort.
11 Q Okay. And looking at your education and background,
12 the AAS in quality control technology, explain to me
13 what that is?
14 A That's a two-year associates degree in quality control
15 technology. And, basically, there was a time in my
16 life I thought I was going to be building missiles for
17 the military, I was going to be a quality inspector for
18 them and changed direction.
19 Q And the direction you changed was what?
20 A Into environmental engineering on the civil side.
21 Q Tell me what is entitled (ph) in environmental
22 engineering and don't just say environmental
23 engineering, tell me what that is?
24 A Environmental engineering is primarily as perceived as
25 cleaning up air, water, soil, chemicals, spills of any

4 (Pages 10 to 13)

JOHN GILBERT vs. APC NATCHIQ, INC.
CASE NO. 3:03-CV-00174-RRB

DEPOSITION OF JOHN D. GILBERT
MAY 31, 2006

Page 14

1 nature. Primarily, my focus was acid rock drainage in
2 the mining industry which is the natural development of
3 sulfite and acidic waters from sulfite materials.
4 Q Okay. In that course of study did you have courses
5 that would train you in monitoring air, water, et
6 cetera?
7 A Yes, I did.
8 Q Okay. And how about any kind of courses in chemistry
9 that would allow you to understand the significance of
10 the testing that you would be doing?
11 A Yes, I took chemistry courses.
12 Q Okay. And do you think that's translatable into the
13 kind of work that you were doing as a specialist -- as
14 a specialist at APC?
15 A Yes. The school I went to, Montana Tech, also has one
16 of the better safety programs around. And the
17 education you get in the environmental field and the
18 safety field is pretty much hand in hand up until about
19 the beginning or the middle of your third year, at
20 which time you break off. So the chemistry courses for
21 environmental engineering and the chemistry courses for
22 the safety program are -- are pretty much identical up
23 to that point. So, yes, is the answer to your
24 question.
25 Q So they're applicable then?

Page 15

1 A They're applicable.
2 Q Right. Within the course of study that you did, in
3 your undergraduate degree, what percentage of them
4 would have been associated with safety training --
5 safety monitoring, safety training, things that you
6 feel were applicable to your safety specialist job or
7 your safety supervisor job?
8 A Just the general courses would be applicable. In other
9 words, general chemistry, general math, general
10 physics. On the high end there may have been some air
11 monitoring courses that I took that would be
12 applicable.
13 Q Okay.
14 A Although, on the environmental side, it's typically
15 engross. In other words, you're sampling for the
16 masses and not for a single individual that you would
17 sample for in the safety specialist position.
18 Q Okay. And at Montana tech, your M.S., your emphasis
19 was -- it says mineral waste treatment emphasis?
20 A Engineering.
21 Q Or in mine, I see.
22 A Mine and mineral waste treatment emphasis.
23 Q Okay.
24 A And that was again to become more specialized in the
25 cleanup of acid rock drainage, mining solutions.

Page 16

1 Q What brought you to the Slope since you were a mine
2 guy?
3 A I got a call from a friend of mine that worked up there
4 and they were looking for an individual to come up and
5 it was a place I'd always wanted to work, and just
6 visit, and go to. So the opportunity presented itself
7 and I went.
8 Q Okay. In terms of your M.S., how long did it take you
9 to get it?
10 A Eighteen months.
11 Q And within that particular program do you have to do a
12 thesis?
13 A I chose the non-thesis route.
14 Q And do you have to do any kind of testing or anything
15 in order -- orals -- to get the degree?
16 A Yes. Oh, yes.
17 Q And what did those entail? What were the areas?
18 A It was all mining related.
19 Q Okay.
20 A And I think I had a week's worth of oral boards and
21 some high level testing.
22 Q Was any of it safety related?
23 A No.
24 Q Now, within the safety field what, if any, training
25 have you had that would be specialized towards safety?

Page 17

1 A The only specialized training I really had is probably
2 the 40-hour HAZWOPER class, the 8-hour HAZWOPER, I
3 think they still call it the HAZWOP supervisor class,
4 safety related in the mining industry is the MSHA
5 training. It's an annual certification. I've had --
6 these are all, you know, one week or less classes. I
7 also have a 30-hour OSHA course.
8 Q Okay. Is it under the most recent or under the prior
9 version of OSHA?
10 A That's the most recent version.
11 Q It changed in 2002, so did you have training in both?
12 A It was -- it was prior or excuse me post-2002.
13 Q Okay. And that was specific to your job as a safety
14 supervisor?
15 A Even though I'm not necessarily.....
16 Q Well you were employed during that time?
17 A Yes, I was employed during that time.
18 Q With APC?
19 A With APC, yes. I think that's the class Doug sent me
20 to.
21 Q Okay.
22 A In Anchorage.
23 Q All right. What is radiological worker one and two?
24 A Those are classes that allow you to go to work in a
25 radiological area such as, you know, some of the

5 (Pages 14 to 17)

JOHN GILBERT vs. APC NATCHIQ, INC.
CASE NO. 3:03-CV-00174-RRB

DEPOSITION OF JOHN D. GILBERT
MAY 31, 2006

Page 18	Page 20
<p>1 national labs. Like where I currently work you have to</p> <p>2 have radiological one and radiological two training in</p> <p>3 order to work there.</p> <p>4 Q And the training teaches you safety and how to deal</p> <p>5 with it?</p> <p>6 A Correct.</p> <p>7 Q Okay. And you had that....</p> <p>8 A Evacuation procedures and so forth.</p> <p>9 Q And Geoprobe, what is that?</p> <p>10 A That's just a small drilling rig. It allows you to do</p> <p>11 subsurface sampling of soil and water. It's a tract</p> <p>12 drilling rig is all it is.</p> <p>13 Q Okay. At the time that you came to work with APC as a</p> <p>14 safety specialist, which would have been back in</p> <p>15 January of '01, did you believe that you had the</p> <p>16 qualifications to work as a safety specialist as</p> <p>17 described by APC?</p> <p>18 A I did after they hired me. Yes -- yes, I did.</p> <p>19 Q Okay. Did you feel competent in carrying out the job</p> <p>20 in a safe and competent and professional manner?</p> <p>21 A Yes.</p> <p>22 Q Okay. And you feel that you had had the prior</p> <p>23 training, or they provided you with the training</p> <p>24 necessary in order to do that?</p> <p>25 A I felt that I probably had enough background to do it</p>	<p>1 A Not in the engineering side I didn't.</p> <p>2 Q Okay.</p> <p>3 A In fact, I used my background from the safety work that</p> <p>4 I had done previously, for sure.</p> <p>5 Q Okay. How many years of education would you estimate</p> <p>6 that you have?</p> <p>7 A Too many. I have probably, let's see, at least I'd say</p> <p>8 nine years.</p> <p>9 Q Of upper education?</p> <p>10 A Correct.</p> <p>11 Q After high school?</p> <p>12 A Yes.</p> <p>13 Q So if we add 12 to that, you've got 21 years?</p> <p>14 A A lot.</p> <p>15 Q And how many years do you estimate that prior to going</p> <p>16 to work for APC you had been working in positions that</p> <p>17 had some responsibilities regarding safety?</p> <p>18 A Those would have started in 1995 with PDC Engineers.</p> <p>19 Q Looking at the job before '95 with Westinghouse, that</p> <p>20 looks like you're doing some sort of testing, were you</p> <p>21 not? Water, corrosion, inspection of water stored</p> <p>22 nuclear fuel.</p> <p>23 A Uh-huh (affirmative).</p> <p>24 Q Is that a health and safety issue?</p> <p>25 A No.</p>
Page 19	Page 21
<p>1 from my previous jobs.</p> <p>2 Q Okay. How about the safety supervisor position after</p> <p>3 working for APC and with your background, did you</p> <p>4 believe that you had the background and education to be</p> <p>5 able to carry out the responsibilities of that</p> <p>6 position?</p> <p>7 A Yes. I don't believe that the responsibilities of that</p> <p>8 position were any different than the responsibilities</p> <p>9 of the safety specialist.</p> <p>10 Q Okay. Do you think it's the same job?</p> <p>11 A Pretty close. Yes, any of the safety specialists could</p> <p>12 have done the same job that I was doing as the safety</p> <p>13 supervisor. And, in fact, we did at times rotate</p> <p>14 through and other guys filled in. So I think it was</p> <p>15 just an equal level job with maybe a few more caveats</p> <p>16 thrown in.</p> <p>17 Q Why do you think you were paid over \$100.00 a day more?</p> <p>18 A That, I don't know. I think I was doing a good job for</p> <p>19 them. I don't know why they paid me \$100.00 more a</p> <p>20 day.</p> <p>21 Q You didn't mind did you?</p> <p>22 A Heck, no.</p> <p>23 Q Okay. Do you believe that in carrying out your</p> <p>24 position as a safety supervisor that you used your</p> <p>25 education and background and training?</p>	<p>1 Q All right. How about the internship that you did, set</p> <p>2 up a chemical inventory report for hazardous</p> <p>3 substances?</p> <p>4 A No.</p> <p>5 Q That's not a safety issue?</p> <p>6 A No, it's not.</p> <p>7 Q Is that knowledge though that's important for somebody</p> <p>8 in safety to know in terms of hazardous substances --</p> <p>9 an inventory?</p> <p>10 A Oh, yes. Definitely.</p> <p>11 Q Okay. So that's applicable to the work that you</p> <p>12 subsequently did?</p> <p>13 A Well in this particular case it was all environmentally</p> <p>14 related strictly for the CERCLA and RECLA subsections,</p> <p>15 and I had no interaction with the safety department at</p> <p>16 the mine.</p> <p>17 Q Okay. Beginning in '95 you did -- in your jobs you did</p> <p>18 have contact and interface with health and safety?</p> <p>19 A Yes, strictly from the standpoint we had guess working</p> <p>20 out in the field. So we had to go out and, you know,</p> <p>21 apply the OSHA regulations to the guys doing the</p> <p>22 construction out there. So we just assisted in that.</p> <p>23 It was a small group of guys. So there was several of</p> <p>24 us that were out there, you know, taking part in that.</p> <p>25 Q That's the PDC Engineers group that you're specifically</p>

6 (Pages 18 to 21)

JOHN GILBERT vs. APC NATCHIQ, INC.
CASE NO. 3:03-CV-00174-RRB

DEPOSITION OF JOHN D. GILBERT
MAY 31, 2006

Page 22

1 talking about?
2 A Correct.
3 Q Now with Aspen Creek, it says that you did water system
4 design, water sampling and analysis. You did
5 permitting and control system design, industrial
6 ventilation design, water and soil remediation, all of
7 that has to do, or does it not, with sampling and being
8 aware of what is present in the environment and setting
9 up a system to contain it?
10 A Correct.
11 Q Okay. And that would also be applicable to the work
12 that you would do as a safety supervisor, would it not?
13 A Not in this case, it would not. This was all directly
14 related to pollution control and reclamation, soil
15 stability. I'm trying to remember which design I did
16 for the ventilation system, but it's not coming back to
17 me right now.
18 Q Well the department you worked in was Health, Safety
19 and Environment, correct?
20 A Correct.
21 Q And they were within your concerns over spills, were
22 there not?
23 A Yes.
24 Q And there were concerns over leaks of chemicals into
25 the atmosphere, correct?

Page 23

1 A Yes.
2 Q H2O, for example, or hydrogen sulfite, things of that
3 nature?
4 A Yes.
5 Q Okay. Now, in looking at and monitoring the
6 environmental repercussions and the responsibilities
7 you had in this Aspen Creek, if not directly the same,
8 would they not be parallel? The kind of experience
9 that you would find helpful in....
10 A I guess there's some generic knowledge there that could
11 pass through with, you know, with everything so --
12 Q Okay. And familiarity with environmental requirements,
13 reading the CFR, knowing what the federal and state
14 requirements are, that sort of experience?
15 A Yes.
16 Q All of that was entailed in this, and important in the
17 job you subsequently had?
18 A Yes.
19 Q How about with Cypress-Amax Gold? Either one of the
20 two jobs that you had with them, environmental
21 specialist and then you were a mine engineer? Again,
22 are there parallels or specifics within those jobs that
23 you believe would have been important or applicable to
24 the job that you did as either a specialist or
25 supervisor for APC?

Page 24

1 A I think again there's generic items that pass through
2 all of these positions that I've had since I got out of
3 school that would assist me in doing a safety position
4 type job.
5 Q Okay. For example, it says you maintained and
6 developed special environmental programs and permits,
7 you've set up environmental programs within or a
8 specialized safety programs within APC, did you not, as
9 a supervisor?
10 A I don't know quite what you mean by specialized safety
11 programs. The programs that we had in place at APC
12 were fairly nonexistent when -- when I first got there
13 in 2001 and by the time I left they were coming
14 together. But, again, they're just a reiteration of
15 the -- of the OSHA standards kind of custom fit for the
16 work that's done up on the North Slope.
17 Q And you were involved in putting together those
18 programs -- pulling them together, is that correct?
19 A Yes.
20 Q Okay. And that was part of your job?
21 A Yes.
22 Q Yes. Was it a large part of your job?
23 A Towards the end there I spent some considerable time on
24 it. I think we all did. It was unfinished when I
25 left, but it was a pretty good chunk of the work, yes.

Page 25

1 Q Okay.
2 A We all devoted quite a bit of time to getting the
3 regulations put together or the rules and regulations
4 put together.
5 Q To be in compliance with the federal standards and
6 state, OSHA, et cetera?
7 A Yes, to be more in compliance. I think you're always
8 striving to be as compliant as you can be.
9 Q Okay. And what about this job, MSE Technology
10 Applications? You did project management there,
11 correct?
12 A Uh-huh (affirmative).
13 Q And that would be applicable to the work that you did
14 at APC?
15 A No, not necessarily. Most of the work I did for MSE
16 was with the EPA's mine waste treatment group. And it
17 had to do strictly with the reclamation of abandoned
18 work environment.
19 Q Okay. But I'm thinking you described yourself as doing
20 project management, and I'm just talking that
21 terminology that would be involved generically in the
22 kind of work that you did for APC, would it not?
23 A I don't think you can relate anything I did with MSE to
24 what I did with APC.
25 Q Okay. And why is that?

7 (Pages 22 to 25)

JOHN GILBERT vs. APC NATCHIQ, INC.
CASE NO. 3:03-CV-00174-RRB

DEPOSITION OF JOHN D. GILBERT
MAY 31, 2006

Page 26

- 1 A Just two totally different jobs.
2 Q Because of the nature of the industry or the nature of
3 the subject matter?
4 A Both, yes.
5 Q Okay. Now in your job with HECLA it looks like you had
6 a health and safety responsibility?
7 A Yes.
8 Q Describe that for me.
9 A Basically, put together health and safety procedure for
10 the 30-some odd employees we had working at the mine --
11 at the mine, and since it didn't exist before I got
12 there put that together. And then just basically
13 developed a mine plan if you will for the employees to
14 become in compliance with OSHA standards.
15 Q Okay.
16 A It's shut down since -- we were rolling from an
17 operating mine which would have been under MSHA rule,
18 to a reclaimed mine which is under OSHA rules.
19 Q Okay. And that's similar to some of the
20 responsibilities you had with APC?
21 A Yes.
22 Q Okay. Have you considered health, safety and
23 environment a profession?
24 A Yes.
25 Q And does it require specialized training?

Page 27

- 1 A Yes.
2 Q And specialized knowledge?
3 A Yes.
4 Q And the kind of work that you were doing, both as a
5 specialist and as a supervisor, did it require
6 experience and use of your education?
7 A Yes.
8 Q And that education, is it specialized? I mean is that
9 something that I could walk out and do? I have a
10 different kind of specialized education, correct?
11 A I guess, the answer is you'd have to have specialized
12 training, but anybody can get specialized training.
13 Q Some people are more fit for certain kinds of things
14 than others.
15 A Right.
16 Q Was part of your job to interpret complex data --
17 testing data?
18 MR. COVELL: Excuse me, I've got to object as
19 to when and where he's doing that.
20 Q (By Ms. Zobel) As a safety supervisor was part of your
21 job to interpret complex data?
22 A I'm not sure I would call it complex, but we did
23 interpret data.
24 Q Okay. From testing that was done in the field?
25 A Yes.

Page 28

- 1 Q And if you were wrong in your interpretation, could
2 that result in a health threat?
3 A Yes.
4 Q And if you misinterpreted that could it lead to
5 somebody's death?
6 A You hope not. You hope you have enough procedures in
7 place that by the time you're sampling that -- I would
8 have to say no, it cannot lead to somebody's death.
9 Q Well if you were wrong though in your interpretation of
10 the data?
11 A You wouldn't let it get to that point.
12 Q Okay. You would have all kinds of systems in place to
13 prevent it getting to the point where it would threaten
14 somebody?
15 A Yes, there's administrative engineering and -- and PPE
16 criteria that you always put in place before you get to
17 that stage.
18 Q And PPE being personal protective equipment?
19 A Correct, yes.
20 Q And, but all of that as a whole, all of those different
21 PPE criteria, the different standards that are put in,
22 for example, for how to do a confined space issue, all
23 of those particular requirements are steps that are put
24 in and drawn up by health and safety, correct?
25 A They're provided to you in the -- in the CFR standards.

Page 29

- 1 Q Okay. Was part of your responsibility though to see
2 that they were carrying those out?
3 A Yes.
4 Q Within the different areas?
5 A Yes.
6 Q Okay. And having the requirement of carrying out those
7 kinds of activities, that carries with it
8 responsibilities for people, does it not?
9 A Can you explain that to me?
10 Q Yes, that was a backwards question. I'm sorry. The
11 job had responsibilities for people's health and safety
12 and to make sure that people were operating safely,
13 correct?
14 A Correct.
15 Q Okay. And if you were wrong in the way that you
16 interpreted something, or the data, that responsibility
17 and somebody were injured, that responsibility would
18 come back to you?
19 A I suppose if a person in a safety field made a gross
20 error then yes, you could be responsible for somebody's
21 injury or illness or what have you.
22 Q Okay. And within the job you had to take CFR's and
23 OSHA requirements and you had to translate what's on
24 paper requirements into actual programs as to how they
25 would be performed in the field?

8 (Pages 26 to 29)

JOHN GILBERT vs. APC NATCHIQ, INC.
CASE NO. 3:03-CV-00174-RRB

DEPOSITION OF JOHN D. GILBERT
MAY 31, 2006

Page 30

1 A I would say that we took what was written in the CFR's
2 and implemented those words into the field.
3 Q Okay. And sometimes that took translation?
4 A Of course, yes.
5 Q And that's the kind of work that you were doing when
6 you were a safety supervisor, is that correct?
7 A A safety supervisor or a safety specialist, they were
8 one in the same there.
9 Q Okay.
10 A Using the CFR's the same way so --
11 Q And you were required to exercise your own judgment as
12 to what those meant?
13 A I don't know what you mean by exercise my own judgment
14 as to what they meant. I mean.....
15 Q Well you used.....
16 Athey're laid out in the CFR's so you just
17 basically read them and --
18 Q Interpret them.
19 A Interpret them I suppose, yes.
20 Q All right. And the way in which they applied though to
21 that particular situation you were using your judgment
22 as to how they would best be implemented in the field?
23 A Yes, you want to make sure you're trying to implement
24 them as they're written.
25 Q Okay. And within the job that you had as to -- let me

Page 32

1 Q Okay. Did you work in coordination with those people
2 in determining what training programs were needed?
3 A The training programs were pretty much laid out when I
4 got there, so I -- I'm trying to recall if there any
5 significant changes in the training programs and I
6 guess I would have to say no, there were no significant
7 changes in the training programs.
8 Q Okay.
9 A After I arrived so --
10 Q Okay. I'm going to show you what we previously
11 produced as APC0041. And this is a copy of the safety
12 supervisor description, have you seen that before?
13 A I don't know if I've seen this before or not.
14 Q Okay. Does that sound like your job?
15 A Yes, it generally does.
16 Q All right.
17 MS. ZOBEL: That's been marked as Exhibit what?
18 (Deposition Exhibit G-2 marked)
19 COURT REPORTER: G-2.
20 MS. ZOBEL: All right. Exhibit G-2.
21 Q (By Ms. Zobel) Now within this it says, for example,
22 you have the -- now it does say you have oversight of
23 training functions. Health, safety, environment and
24 training functions. But you say the training program
25 is pretty much in effect and humming along?

Page 31

1 rephrase that. You had responsibilities also to train
2 other people who did have your level of expertise and
3 in understanding the health and safety
4 responsibilities?
5 A Yes and no I suppose. We had a training department if
6 that's what you mean. Other employees -- we had a
7 training department that would provide training and at
8 times I assist them because I would fill in for those
9 guys providing general safety training to the
10 employees. I don't know if I gave any specific
11 training to any of the safety specialists.
12 Q Okay.
13 A If that's what you're asking, I'm not sure.
14 Q Well that -- how about lay people? Did you do any of
15 the training at all, outside of the training
16 department? Do you train the trainers, for example?
17 A No. No.
18 Q Okay. Did you help determine what the trainers would
19 be training?
20 A (No audible answer)
21 Q Does that make sense?
22 A I think I understand.
23 Q Were you setting part of the agenda that the trainers
24 would follow?
25 A Not necessarily, no.

Page 33

1 A Yes.
2 Q Okay. So you didn't have to do a lot of tweaking
3 there?
4 A No.
5 Q Now it says you have development of site specific
6 policy and procedures, was that correct?
7 A Let me catch up to you here.
8 Q I'm sorry. I'm leaping ahead of you.
9 MR. COVELL: Last sentence of the second
10 paragraph there.
11 Q (By Ms. Zobel) Responsibilities include.....
12 A Oh, okay.
13 Q Let's just take the whole paragraph or that sentence.
14 Let's start at the beginning of that paragraph.
15 A Okay.
16 Q Safety supervisor provides consultation to both
17 construction and maintenance operations, was that
18 correct?
19 A Yes.
20 Q Okay. Regarding compliance, company policies and safe
21 work practices?
22 A Yes.
23 Q Okay. And it says responsibilities include supervision
24 of six safety specialists?
25 A Yes, there was six safety specialists working there.

9 (Pages 30 to 33)